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PUBLIC LAW 99-145—NOV. 8, 1985

99 STAT. 583

Public Law 99-145
99th Congress

An Act

To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

Nov. 8, 1985

[S. 1160]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Department of Defense Authorization Act, 1986".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Reserve components.
- Sec. 105. Defense Agencies.
- Sec. 106. NATO cooperative programs.
- Sec. 107. Reductions in authorizations due to savings from lower inflation and prior-year cost savings.
- Sec. 108. Provisions relating to transfers of prior-year funds.
- Sec. 109. Report on reductions and transfers.
- Sec. 110. Improvement in conventional readiness capability.

PART B—ARMY PROGRAM LIMITATIONS

- Sec. 121. Sergeant York Division Air Defense (DIVAD) gun.
- Sec. 122. Bradley Fighting Vehicle.
- Sec. 123. Conditions on procurement of certain combat vehicles.
- Sec. 124. Sale of L119 howitzers overseas.
- Sec. 125. Restrictions on purchase of 5-ton trucks.
- Sec. 126. Other Army programs.

PART C—NAVY PROGRAM LIMITATIONS

- Sec. 131. A6 aircraft rewing program.
- Sec. 132. Limitations on Navy aircraft procurement.

PART D—AIR FORCE PROGRAM LIMITATIONS

- Sec. 141. MX missile program.
- Sec. 142. Competition for Air Force fighter aircraft procurement.
- Sec. 143. Advanced technology bomber.
- Sec. 144. Special operations forces HH-53 helicopters.

PART E—OTHER LIMITATIONS

- Sec. 151. C-12 aircraft.
- Sec. 152. Adequate airlift for special operations forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

- Sec. 201. Authorization of appropriations.

Department of
Defense
Authorization
Act, 1986.

99 STAT. 726

PUBLIC LAW 99-145—NOV. 8, 1985

the Secretary with a credible plan for the repayment of the material; and

(3) the contractor has agreed to pay interest (at a rate determined by the Secretary) for the period beginning on the date on which the uranium tetrafluoride is made available to the contractor and ending on the date on which the material is repaid to the United States.

10 USC 133 note. SEC. 1212. PROHIBITION OF CERTAIN RESTRICTIONS ON INSTITUTIONS ELIGIBLE TO PROVIDE EDUCATIONAL SERVICES

(a) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may discriminate against or preclude any accredited academic institution authorized to award one or more associate degrees from offering courses within its lawful scope of authority solely on the basis of such institution's lack of authority to award a baccalaureate degree.

(b) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, other than those for services at the graduate or postgraduate level, may limit the offering of such services or any group, category, or level of courses to a single academic institution. However, nothing in this section shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all armed services as may be necessary to avoid unnecessary duplication of offerings, consistent with the purpose of this provision of ensuring the availability of alternative offerors of such services to the maximum extent feasible.

(c) This section shall apply to contracts entered into after April 1, 1985.

Vessels.

(d) Nothing in this section shall be construed to require more than one academic institution to be authorized to offer courses aboard a particular naval vessel.

Study.

(e)(1) The Comptroller General of the United States shall carry out a study to determine (A) the educational needs of members of the Armed Forces of the United States and civilian employees of the Department of Defense stationed outside the United States and the educational needs of the dependents of such members and employees, (B) the most effective and feasible means of meeting such needs, and (C) the cost of providing such means.

Report.

(2) Not later than September 1, 1986, the Comptroller General shall transmit to the Congress a report on the study required by subsection (1). The report shall include the Comptroller General's findings and such recommendations for legislation as the Comptroller General considers appropriate.

PART B—PERSONNEL MANAGEMENT

SEC. 1221. COUNTERINTELLIGENCE POLYGRAPH PROGRAM

(a) IMPLEMENTATION OF PROGRAM.—During fiscal years 1986 and 1987, the Secretary of Defense shall implement a program of counterintelligence polygraph examinations based upon Department of Defense Directive 5210.48, dated December 24, 1984, for military and civilian personnel of the Department of Defense and

CI questions only →

PUBLIC LAW 99-145—NOV. 8, 1985

99 STAT. 727

personnel of defense contractors whose duties involve access to classified information at the level of top secret or classified information within special access programs established under section 4.2(a) of Executive Order 12356.

3 CFR, 1982
Comp., p. 166.

(b) **LIMITATION DURING FISCAL YEARS 1986 AND 1987.**—The total number of persons required to take a counterintelligence polygraph examination under this section—

(1) may not exceed 3,500 during fiscal year 1986; and

(2) may not exceed 7,000 during fiscal year 1987.

(c) **REPORTS.**—(1) Not later than December 31, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on his plans to expand the use of polygraph examinations in the Department of Defense. Such report shall include a discussion of the Secretary's plans for recruiting and training additional polygraph operators.

(2) Not later than December 31, 1986, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of polygraph examinations administered by or for the Department of Defense during fiscal year 1986. The report shall include—

(A) the number of polygraph examinations conducted during such fiscal year;

(B) a description of the purposes and results of such examinations;

(C) a description of the criteria used for selecting programs and individuals for examinations;

(D) the number of persons who refused to submit to an examination;

(E) a description of the actions taken, including denial of clearance or any adverse action, when an individual either failed or refused to take the examination;

(F) an explanation of the uses made of the results of the examinations; and

(G) a detailed accounting of those cases in which more than two examinations were needed to attempt to resolve discrepancies.

(d) **POLYGRAPH RESEARCH PROGRAM.**—(1) The Secretary of Defense shall carry out a continuing research program to support the polygraph activities of the Department of Defense. The program shall include—

(A) an on-going evaluation of the validity of polygraph techniques used by the Department;

(B) research on polygraph countermeasures and anti-countermeasures; and

(C) developmental research on polygraph techniques, instrumentation, and analytic methods.

(2) Not later than December 31 of each year, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report on the results during the preceding fiscal year of the research program referred to in paragraph (1).

(3) There is authorized to be appropriated to the Department of Defense for fiscal year 1986 the sum of \$590,000 to carry out the research program referred to in paragraph (1).

(e) **NON-APPLICATION OF SECTION.**—This section does not apply—

Report.

99 STAT. 728

PUBLIC LAW 99-145—NOV. 8, 1985

*This was put in
so that:*

*CIA could
continue full-
scope pol for
people assigned
or detailed to
the Agency*

*And so that
these numbers
would not
count against
the ceiling placed
on DOD.*

*I'm not
sure of the
relevance of
this to the
Sec issue -
Need to see
context -
DOD program
has either been
extended or
made permanent*

Alcohol and
alcoholic
beverages.

(1) to an individual assigned or detailed to the Central Intelligence Agency or to any expert or consultant under a contract with the Central Intelligence Agency;

(2) to (A) an individual employed by or assigned or detailed to the National Security Agency, (B) an expert or consultant under contract to the National Security Agency, (C) an employee of a contractor of the National Security Agency, or (D) an individual applying for a position in the National Security Agency; or

(3) to an individual assigned to a space where sensitive cryptologic information is produced, processed, or stored.

SEC. 1222. REDUCTION IN SECURITY CLEARANCE BACKLOG

(a) FINDING.—The Congress finds that there are many persons with a security clearance at a level of top secret or above who have not been investigated for more than five years as a result of delays in the program of the Department of Defense for periodic reinvestigations of persons with clearance at such a level.

(b) REDUCTION IN CLEARANCE BACKLOG.—The Secretary of Defense shall take such action as may be necessary to achieve a substantial reduction in the backlog under such periodic-reinvestigation program by the end of fiscal year 1986. The Secretary should seek to obtain a 25-percent reduction in that backlog in fiscal year 1986.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1986 for operation and maintenance of defense agencies \$25,000,000 which may be used only for the purpose of carrying out actions required by subsection (b).

(d) REPORT.—Not later than April 1, 1986, the Secretary shall submit to Congress a report on the level and manner of obligating the funds appropriated pursuant to the authorization in subsection (c) and on the level of reductions of the backlog achieved at the time of the report. Such report also shall include a description of resources and the funding level which would be needed in order to reduce by the end of fiscal year 1987 such backlog by 50 percent below the level of such backlog on the date of the enactment of this Act.

SEC. 1223. AUTHORITY FOR INDEPENDENT CRIMINAL INVESTIGATIONS BY NAVY AND AIR FORCE INVESTIGATIVE UNITS

The Secretary of the Navy shall prescribe regulations providing to the Naval Investigative Service authority to initiate and conduct criminal investigations on the authority of the Director of the Naval Investigative Service. The Secretary of the Air Force shall prescribe regulations providing to the Air Force Office of Special Investigations authority to initiate and conduct criminal investigations on the authority of the Commander of the Air Force Office of Special Investigations.

SEC. 1224. ESTABLISHMENT OF MINIMUM DRINKING AGE ON MILITARY INSTALLATIONS

(a) MINIMUM DRINKING AGE BASED ON STATE LAW.—Section 2683 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

“(c)(1) Except as provided in paragraphs (2) and (3), the Secretary concerned shall establish and enforce as the minimum drinking age on a military installation located in a State the age established by the law of that State as the State minimum drinking age.

“(2)(A) In the case of a military installation located—

101st CONGRESS
1st Session

SENATE

99-118

DEPARTMENT OF DEFENSE AUTHORIZATION
ACT, 1986

THE COMMITTEE OF CONFERENCE

SUBMITTED THE FOLLOWING

CONFERENCE REPORT

[To accompany S. 1160]



JULY 29 (legislative day, JULY 16), 1985.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

50-552 O

WASHINGTON : 1985

PART B—PERSONNEL MANAGEMENT

LEGISLATIVE PROVISIONS ADOPTED

Counterintelligence polygraph program (sec. 1221)

The Senate bill contained a provision (sec. 904) that would prohibit the use of any funds for the purpose of implementing certain paragraphs of Department of Defense Directive 5210.48 dated December 24, 1984, relating to polygraph examinations, except for the continuation of the test program authorized by the Department of Defense Authorization Act for fiscal year 1985. The provision further provided that the total number of persons examined under the test program in fiscal years 1985 and 1986 may not exceed 3,500. It also required a report by December 31, 1986 on the conduct of the program and, at the request of the Department of Defense, established a continuing polygraph research program and authorized \$590,000 to carry out the program. Finally, the provision explicitly excepted any individuals assigned to the Central Intelligence Agency or National Security Agency or any individual applying for a position at the National Security Agency.

The House amendment contained a provision (sec. 1199) that would require the Secretary of Defense to institute a program of counterintelligence polygraph examinations for military, civilian and contractor personnel of the Department of Defense, military departments, and the Armed Forces whose duties involve access to classified information. The House provision would require a polygraph examination before a person is granted access to information within a special access program and aperiodically thereafter. It would also permit the Secretary of Defense to require a polygraph examination of anyone who has access to classified information before granting access to such information and aperiodically thereafter.

The conferees agreed to authorize the Secretary of Defense during fiscal years 1986 and 1987 to implement a program of counterintelligence polygraph examinations for military and civilian personnel of the Department of Defense and personnel of defense contractors whose duties include access to classified information at the level of Top Secret or classified information within special access programs established under section 4.2(a) of Executive Order 12356. This program would be based upon the current Department of Defense Directive 5210.48. The conferees recognize that the provisions of that directive set out the situations in which the polygraph may be employed and establish safeguards for those persons who are required to submit to a polygraph examination. That directive is viewed by the conferees as a sincere effort to protect the rights of the individual while permitting the Department of Defense to utilize the polygraph in the protection of its most sensitive information.

The conferees also agreed that during fiscal year 1986 no more than 3,500, and during fiscal year 1987 no more than 7,000 counterintelligence polygraph examinations may be administered. Although the conferees recognize that the polygraph is a very useful tool in counterintelligence investigations, they also recognize that the lack of polygraph operators in the Department of Defense

PERSONNEL MANAGEMENT

POLYGRAPH PROVISIONS ADOPTED

Polygraph program (sec. 1221)

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program authorized by the Department of
for fiscal year 1985. The provision fur-
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1985 and 1986 may not exceed 3,500. It
December 31, 1986 on the conduct of the
test of the Department of Defense, estab-
polygraph research program and authorized
program. Finally, the provision explicitly
assigned to the Central Intelligence
Agency or any individual applying for
Security Agency.

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to authorize the Secretary of Defense
and 1987 to implement a program of coun-
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ment of Defense and personnel of defense
include access to classified information at
or classified information within special
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and establish safeguards for those persons
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conferees as a sincere effort to protect the
while permitting the Department of De-
graph in the protection of its most sensitive

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fiscal year 1987 no more than 7,000 coun-
examinations may be administered. Al-
recognize that the polygraph is a very
investigations, they also recognize the
operators in the Department of Defense

would limit the number of examinations to the total of 10,500 au-
thorized in fiscal years 1986 and 1987.

The conferees also agreed to require the reports described in the
Senate provision. Not later than December 31, 1985, the Secretary
of Defense shall submit to the Committees on Armed Services of
the Senate and the House of Representatives a report on his plans
to expand the use of polygraph examinations in the Department of
Defense. Not later than December 31, 1986, the Secretary shall
submit to the Committees on Armed Services of the Senate and the
House of Representatives a report on polygraph examinations ad-
ministered by or for the Department of Defense during fiscal year
1986.

The conferees further agreed to the provision in the Senate bill
establishing a polygraph research program to support polygraph
activities of the Department of Defense. The Secretary of Defense
would be required to submit to the Committees on Armed Services
of the Senate and the House of Representatives, not later than De-
cember 31 each year, a report on the results of that program
during the preceding fiscal year. A sum of \$590,000 would be au-
thorized to be appropriated for fiscal year 1986 to carry out the re-
search program.

The conferees agreed that this section does not apply to (1) an
individual assigned or detailed to the Central Intelligence Agency
or to any expert or consultant under contract to that Agency; (2)
an individual employed by or assigned to the National Security
Agency, or expert or consultant under contract to that Agency, or
employee of a contractor of that Agency or an individual applying
for a position in that Agency; or (3) an individual assigned to a
space where sensitive cryptologic information is produced, proc-
essed, or stored.

Reduction in security clearance backlog (sec. 1222)

The House amendment contained a provision (sec. 1206) requir-
ing the Secretary of Defense to achieve a 25 percent reduction in
the backlog of reinvestigations of individuals holding security clear-
ances of top secret and above in fiscal year 1986 and would author-
ize \$25 million for that purpose. If the Secretary determined that
he was not able to achieve a 25 percent reduction in the security
clearance reinvestigation backlog in fiscal year 1986, section 1206
would require that he submit a report to Congress outlining what
additional resources and requirements would be necessary to
reduce the backlog by 50 percent by the end of fiscal year 1987.

The Senate bill contained no similar provision.
The conferees agreed to eliminate the requirement that the Sec-
retary of Defense achieve a 25 percent reduction in the security
clearance reinvestigation backlog in fiscal year 1986 and instead
make that level of reduction a goal he should strive to attain. In
addition, the conferees agreed to require that the \$25 million au-
thorized to reduce the security reinvestigation backlog to be used
only for that purpose. Finally, the conferees agreed to require that
the Secretary of Defense report to Congress on his efforts to reduce
the backlog and that additional resources and requirements that
would be necessary to achieve a 50 percent reduction by the end of
fiscal year 1987.

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Central Intelligence Agency
Washington, D.C. 20505

DCI/DDCI Executive Staff

25 October 1988

NOTE FOR: DCI

Attached is a note to you from Secretary Shultz (which was also sent to General Powell) that forwards "facts" on State's view regarding the use of the lifestyle polygraph in joint programs. The bottom line is that State employees working in the joint programs have been informed in writing of State regulations requiring that they only take a CI polygraph.

STAT

ROUTING SLIP

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI		X		W
2	DDCI		X		
3	EXDIR		X		
4	D/ICS				
5	DDI				
6	DDA		X		
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
14	D/PAO				
15	D/PERS				
16	D/Ex Staff				
17	D/SEO		X		
18	D/Security		X		
19					
20					
21					
22					
SUSPENSE		Date			

Remarks

STAT

ER 88-1570X/4

Executive Secretary

24 Oct '88

Date

3637 (10-81)

THE SECRETARY OF STATE
WASHINGTON

October 21, 1988

MEMORANDUM FOR: WILLIAM WEBSTER ✓
COLIN POWELL

FROM : George P. Shultz *ups*

The attached memo sets out the facts on
our view of the use of lifestyle lie detector
tests in joint programs.

cc: Mr. Armacost
Mr. Gates

Attachment: As stated.

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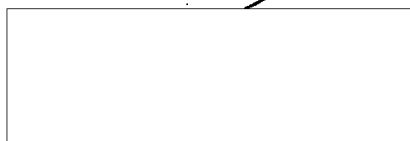
Central Intelligence Agency
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THE SECRETARY OF STATE
WASHINGTON

October 21, 1988

MEMORANDUM FOR: WILLIAM WEBSTER
COLIN POWELL

FROM : George P. Shultz *GPS*

The attached memo sets out the facts on our view of the use of lifestyle lie detector tests in joint programs.

cc: Mr. Armacost
Mr. Gates

Attachment: As stated.

L-768-15

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Central Intelligence Agency



Washington, D.C. 20505

14 September 1988

MEMORANDUM FOR: General Colin Powell
Assistant to the President
for National Security Affairs

FROM:
Executive Assistant to the DCI

25X1

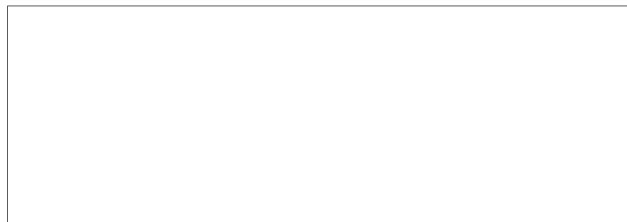
SUBJECT: Security Evaluation Office (SEO)

1. Judge Webster asked me to forward to you the attached note that reports on Mr. Gates' conversation with Ron Spiers on Wednesday, 14 September 1988 regarding the problem of what type of polygraph should be given to State people working in SEO. This latest difficulty involves determining whether SEO is a joint operation between CIA and State or a completely separate CIA (DCI) office. State apparently has an internal policy permitting a full scope polygraph for detailees to non-State operations but limiting the polygraph exam to only CI questions for State officers working in a joint operation. The Secretary is now awaiting a legal opinion from his people on whether SEO is a joint operation or not.

2. Judge Webster indicated he would appreciate any help you could give him on this problem.

25X1

Enclosure



CL By Signer
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L-260-1R

AUTHORIZED USES OF POLYGRAPH EXAMINATIONSA. General

1. A Department of State official may ask a Department employee or contractor to agree to take a polygraph examination only in accordance with these regulations and only for those purposes set forth in section B of this Chapter and specifically authorized by the Secretary of State without delegation.

2. In addition, after a purpose in section B has been specifically authorized, an individual may be asked if he or she is willing to take a polygraph only after approval in writing in each specific case by the Secretary, the Under Secretary for Management, or other person designated by the Secretary. The polygraph shall be employed only when the person to be examined has consented in writing to the examination.

* * *

B. INVESTIGATIVE CASES FOR WHICH THE POLYGRAPH MAY BE AUTHORIZED

* * *

2. Personnel Security Investigations. A polygraph examination may be authorized in connection with personnel security investigations as follows:

a. Access to Specifically Designated Information in Designated Special Access Programs. A polygraph examination may be authorized to assist in determining the initial eligibility (and aperiodically thereafter on a random basis to assist in determining continued eligibility) of Department employees and contractor personnel who volunteer for assignment to positions in programs carried out jointly with employees of the Intelligence Community. Such positions must require access to specifically designated classified information protected within special access programs which are established pursuant to E.O. 12356 and which the Secretary, without delegation, also specifically designates under this subparagraph for the use of polygraph examinations. Such specific designation shall be based upon the request of the Assistant Secretary for Diplomatic Security, who shall certify in writing, or obtain the certification of an appropriate official of the Intelligence Community, that unauthorized disclosure of the information in question could reasonably be expected to: (1) jeopardize human life or safety; (2) result in the loss of unique or uniquely productive intelligence sources or methods vital to U.S. security; or (3) compromise technologies, plans or procedures vital to the strategic advantage of the United States. The scope of any polygraph examination administered under this subparagraph shall be limited to the counterintelligence topics prescribed in Appendix A of this Regulation.

* * *

5. Voluntary Assignment or Voluntary Detail to Intelligence Agencies. Polygraph examination may be authorized for Department employees and contractor personnel to assist in determining their eligibility for initial or continued voluntary detail for duty in positions at the National Security Agency, the Central Intelligence Agency, and the Defense Intelligence Agency for which a polygraph examination is required by those agencies. The scope of any polygraph examination administered under this section shall be limited to the counterintelligence topics prescribed in Appendix A of this Regulation.

* * *

APPENDIX A
COUNTERINTELLIGENCE SCOPE

When the scope of a polygraph examination authorized under this Regulation is limited to counterintelligence areas, questions posed in the course of such examinations shall be limited to those necessary to determine:

WHETHER THE EXAMINEE HAS;

1. Ever engaged in espionage or sabotage against the United States.
2. Knowledge of anyone who is engaged in espionage or sabotage against the United States.
3. Ever been approached to give or sell any classified materials to unauthorized persons.
4. Ever given or sold any classified materials to unauthorized persons.
5. Knowledge of anyone who has given or sold classified materials to unauthorized persons.
6. Any unauthorized contact with representatives of a foreign government.

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6 September 1988

MEMORANDUM FOR: Director, Security Evaluation Office
FROM: Director of Central Intelligence
SUBJECT: Polygraph for State Employees Assigned to SEO

1. At a meeting this afternoon with Secretary Shultz, Secretary Shultz volunteered that the polygraph had again reared its ugly head. He noted that they were opposed to the polygraph in State but that we used it as a part of our work. He understood that when people were secunded to the DCI they were required to take the same polygraphs. He would not require his people to do this. On the other hand, if they agreed to do it, that was their business and they would be working for us.

2. This was at the end of another meeting and the Secretary left at that point. Deputy Secretary Whitehead remained in the meeting and advised me that he had, as he had agreed to do, talked to the Secretary and this was the end product. He had already spoken to Ron Spiers to advise Ron Spiers accordingly. Spiers will tell the two secundeeds that a lifestyle section is a part of the polygraph. I expressed some concern about this and suggested that they might wish to talk to our people about the nature of the examination. Secretary Whitehead said that if as a result of Mr. Spiers' conversation either of the two secundeeds no longer wished to work with us, he would then refer them to us for a more accurate exposition of the process.

3. I am encouraged that this roadblock seems to be passable. Let me know how matters develop.

WHS

William H. Webster

cc: DDCI

~~SECRET~~

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14 September 1988

NOTE TO: Director of Central Intelligence

FROM: Deputy Director of Central Intelligence

1. I followed up with Ron Spiers today on your conversation with Shultz Tuesday afternoon. I told him that Shultz had indicated that what happened to Terry Shea was not consistent with what he had directed. I told Spiers that part of our problem is that Shultz does not communicate to anyone what he discusses with the Director. Spiers agreed with that. He added, however, that Whitehead had called him (Spiers) yesterday afternoon to say that the Secretary had decided he had checked the wrong box in the memo on this issue (i.e., he had intended to check full scope polygraph but checked CI by mistake). [redacted]

25X1

2. Spiers said he had then discussed this with the Secretary this morning and that one of the department lawyers told the Secretary at that session that he could not approve a full scope polygraph because those were strictly limited to formal "details" of State officers to CIA, but that this is a joint operation. The Secretary said he would ponder this and asked for a memo of further explanation from the legal people -- and he wanted it quickly. [redacted]

25X1

3. (I told Spiers to point out to his legal people that this is not a joint operation. The DCI is providing all of the money and all of the slots. He said their people consider it an interagency function, to which I responded it may be that in a political sense but it certainly is not in the technical sense -- and the lawyers seem to be trying to find technical problems. I told him that State is contributing nothing to this project -- "in more ways than one". He laughed.) [redacted]

25X1

RS.
Robert M. Gates

cc: D/SEO
OGC

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~~CONFIDENTIAL~~

30 August 1988

MEMORANDUM FOR THE RECORD

SUBJECT: Discussion with Clark Dittmer

1. Clark Dittmer called me at 1100 hours this date to inform me of a call to him from Under Secretary Spiers inquiring about the status of polygraph approvals for Jon Lechevet and Terry Shea. Dittmer said he told Spiers that the necessary approvals were circulating in the Department and might be sent telegraphically to the Secretary today or tomorrow. In any case, the approvals will not be received in time to meet the polygraph dates of 31 August and 1 September.

2. The DDCI informed me at 1115 hours of his discussion with Spiers and instructed me to pass on the major points to Dittmer. These points were discussed with Dittmer around 1130 hours:

- The DCI/DDCI believes the Department is involved in a colossal stall.
- We see the delay on polygraphs as unacceptable; Lechevet cancelled once because DS failed to obtain approval. There has been ample time to obtain the Secretary's approval for both these appointments.
- The DCI has a clear mission from the President and is obligated to report to him the delays by the Department.
- The DCI must take these issues to the President if the Department doesn't:
 - o approve Lechevet and Shea for polygraphs,
 - o set their report-for-duty dates,
 - o come to an agreement with the DCI/SEO on active cooperation, and
 - o by the end of next week.

3. Dittmer said that Spiers had not shared any of this with him and he mused a bit about these being issues that only Shultz and Webster could resolve. Dittmer asked me if the polygraphs were to be limited to CI issues or were to be full scope. When I described DDCI recollection that Secretary Shultz already had agreed that "sensitive positions" required a full scope polygraph, Dittmer protested the Secretary could not have said that and, if he did say something like that, he didn't realize what he was doing. Dittmer claimed that State's internal instructions prohibit anything but a CI issue polygraph.

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